

## EXHIBIT 5

From: Roger Townsend  
 To: Larry Allenbrun  
 Cc: Roger Townsend; nick power; Curt Feig; Cindy Heidelberg  
 Subject: Hempton v. Pond5 Meet and Confer  
 Date: Tuesday, July 19, 2016 2:48:04 PM  
 Attachments: image003.png

Larry:

This follows up our meet and confer from today.

1. **Metadata on Sound Files.** I advised you that the metadata on the sound files has been removed. I can now clarify that the metadata was removed on April 21, 2016. The metadata is important to our investigation and prosecution of this matter and we need to understand what happened with these files and how the metadata came to be removed. You agreed to provide a statement on behalf of your client regarding the chain of evidence and treatment of those electronic files.
2. **Discovery of Users.** I advised that we needed you to identify (as such term is defined in the discovery requests) the end users that downloaded Gordon Hempton's copyrighted files. You asked for more information regarding the basis of our claim that the particular files were, in fact, Mr. Hempton's copyrighted works of authorship. We allege that the following files and data from Ckenedy/Mr. Kahn were infringement's of Mr. Hempton's copyrighted works:

| pond_user | objectid | Pond5 name                                    | Hempton filename   |
|-----------|----------|---|--|
| 554434    | 41736427 | Wind grass wispy breeze                       | QP02 0200 Wind grass wispy breeze.wav                      |
| 554434    | 41868858 | Desert morning bird chorus (3)                | QP01 0131 Desert morning bird chorus.wav                   |
| 554434    | 41386040 | Owl Hoot                                      | QP01 0060 Deciduous forest owl hoot.wav                    |
| 554434    | 44444837 | Prairie red-tailed hawk                       | QP06 0647 Prairie red-tailed hawk.wav                      |
| 554434    | 41616044 | Thunder moderately distant (1)                | QP03 0279 Thunder moderately distant.wav                   |
| 554434    | 41868559 | Desert bird wings flutter                     | QP01 0135 Desert bird wings flutter.wav                    |
| 554434    | 41867579 | Coyote solo                                   | QP01 0138 Coyote solo.wav                                  |
| 554434    | 41868481 | Deciduous forest owl hoot                     | QP01 0060 Deciduous forest owl hoot.wav                    |
| 554434    | 41868731 | Desert morning bird chorus (2)                | QP01 0130 Desert morning bird chorus.wav                   |
| 554434    | 44444836 | Prairie quiet faint insects birds             | QP06 0660 Prairie quiet faint insects birds.wav            |
| 554434    | 44445399 | Prairie wind buffeting faint crickets         | QP06 0604 Prairie wind buffeting faint crickets.wav        |
| 554434    | 41869774 | Rain soft                                     | QP01 0011 Rain soft.wav                                    |
| 554434    | 41734694 | Wind desert soft variable over flat lava bed  | QP02 0247 Wind desert soft variable over flat lava bed.wav |
| 554434    | 41737230 | Wind modern light variable wires              | QP02 0139 Wind modern light variable wires.wav             |
| 554434    | 41691269 | Wind plants gentle breeze soft leaf rustles   | QP02 0161 Wind plants gentle breeze soft leaf rustles.wav  |
| 554434    | 41869319 | Ocean shore wave lap gull circles             | QP01 0074 Ocean shore wave lap gull circles.wav            |
| 554434    | 44261421 | Prairie dawn chorus mourning dove (1)         | QP06 0576 Prairie dawn chorus mourning dove.wav            |
| 554434    | 41869470 | Prairie day wind crickets                     | QP01 0085 Prairie day wind crickets.wav                    |
| 554434    | 44445350 | Prairie wind blustery crickets                | QP06 0602 Prairie wind blustery crickets.wav               |
| 554434    | 41647142 | River drumming in rocks waterfall             | QP04 0408 River drumming in rocks waterfall.wav            |
| 554434    | 41892479 | Stream moderate                               | QP01 0018 Stream moderate.wav                              |
| 554434    | 41615922 | Thunder distant                               | QP01 0009 Thunder distant.wav                              |
| 554434    | 41615937 | Thunder echo                                  | QP03 0276 Thunder echo.wav                                 |
| 554434    | 41650473 | Water drop                                    | QP04 0335 Water drop.wav                                   |
| 554434    | 41690886 | Wind deciduous forest breeze gentle insects   | QP02 0184 Wind deciduous forest breeze gentle insects.wav  |
| 554434    | 41734901 | Wind desert rock boulder space                | QP02 0251 Wind desert rock boulder space.wav               |
| 554434    | 41734847 | Wind desert variable complex swirling         | QP02 0255 Wind desert variable complex swirling .wav       |
| 554434    | 41736339 | Wind grass winter brisk consistent            | QP02 0212 Wind grass winter brisk consistent.wav           |
| 554434    | 41691051 | Wind palm frond soft gusty more distant       | QP02 0246 Wind palm frond soft gusty more distant.wav      |
| 554434    | 41691833 | Wind plants whipping breeze stronger          | QP02 0165 Wind plants whipping breeze stronger.wav         |
| 554434    | 41691926 | Wind reed light gusts stem action             | QP02 0217 Wind reed light gusts stem action.wav            |
| 554434    | 41867016 | Canyon owl                                    | QP01 0128 Canyon owl.wav                                   |
| 554434    | 41867394 | Coniferous forest ambience active             | QP01 0063 Coniferous forest ambience active.wav            |
| 554434    | 41867258 | Coniferous forest jay (1)                     | QP01 0071 Coniferous forest jay.wav                        |
| 554434    | 41870040 | Deciduous forest country morning              | QP01 0046 Deciduous forest country morning.wav             |
| 554434    | 41868545 | Deciduous forest tufted titmouse solo         | QP01 0052 Deciduous forest tufted titmouse solo.wav        |
| 554434    | 41868632 | Desert mockingbird solo                       | QP01 0133 Desert mockingbird solo.wav                      |
| 554434    | 41869143 | Insect crickets active                        | QP01 0029 Insect crickets active.wav                       |
| 554434    | 41869213 | Insect crickets isolated                      | QP01 0028 Insect crickets isolated.wav                     |
| 554434    | 44442581 | Prairie crickets busy wind sweeping night (1) | QP06 0621 Prairie crickets busy wind sweeping night.wav    |
| 554434    | 44263959 | Prairie dawn early                            | QP06 0567 Prairie early dawn.wav                           |
| 554434    | 41869523 | Prairie meadowlark chirps chortle             | QP01 0087 Prairie meadowlark chirps chortle.wav            |
| 554434    | 44444959 | Prairie western meadowlark (1)                | QP06 0624 Prairie western meadowlark.wav                   |
| 554434    | 44445494 | Prairie wind gusting crickets                 | QP06 0601 Prairie wind gusting crickets.wav                |
| 554434    | 44265505 | Prairie wind soft breezy                      | QP06 0588 Prairie wind soft breezy.wav                     |
| 554434    | 44445896 | Prairie wind sweeping meadowlark              | QP06 0613 Prairie wind sweeping meadowlark.wav             |
| 554434    | 41614061 | Rain downpour                                 | QP03 0301 Rain downpour.wav                                |
| 554434    | 41615060 | Rain quiet light tone                         | QP03 0292 Rain quiet light tone.wav                        |
| 554434    | 41869802 | Rain strong                                   | QP01 0013 Rain strong.wav                                  |
| 554434    | 41869868 | Riparian Zone night insects                   | QP01 0120 Riparian Zone night insects.wav                  |
| 554434    | 41647706 | River gurgling moderately distant             | QP04 0419 River gurgling moderately distant.wav            |
| 554434    | 41648221 | River profile underwater                      | QP04 0455 River profile underwater.wav                     |
| 554434    | 41648370 | River rapids stronger                         | QP04 0388 River rapids stronger.wav                        |

|        |          |   |   |
|--------|----------|---|---|
| 554434 | 41649035 | River submersion underwater                 | QP04 0450 River submersion underwater.wav                 |
| 554434 | 41649179 | River surging                               | QP04 0380 River surging.wav                               |
| 554434 | 41649865 | Stream rippling surges                      | QP04 0365 Stream rippling surges.wav                      |
| 554434 | 48614816 | Surf pebbles light sweeping                 | QP05 0496 Surf pebbles light sweeping.wav                 |
| 554434 | 48584884 | Surf surges rock jetty busier               | QP05 0472 Surf surges rock jetty busier.wav               |
| 554434 | 41615589 | Thunder distant faint                       | QP03 0290 Thunder distant faint.wav                       |
| 554434 | 41615684 | Thunder distant rolling                     | QP03 0281 Thunder distant rolling.wav                     |
| 554434 | 41615899 | Thunder distant very long peel              | QP03 0278 Thunder distant very long peel.wav              |
| 554434 | 41616128 | Thunder very distant                        | QP03 0287 Thunder very distant.wav                        |
| 554434 | 41895323 | Thunderstorm                                | QP01 0016 Thunderstorm.wav                                |
| 554434 | 41894702 | Tropical forest bird ruckus dawn            | QP01 0043 Tropical forest bird ruckus dawn.wav            |
| 554434 | 41895927 | Tropical forest stream                      | QP01 0041 Tropical forest stream.wav                      |
| 554434 | 41895910 | Wetland bullfrog                            | QP01 0110 Wetland bullfrog.wav                            |
| 554434 | 41895951 | Wetland canada geese flyby                  | QP01 0106 Wetland canada geese flyby.wav                  |
| 554434 | 41895973 | Wetland duck fly across isolated            | QP01 0101 Wetland duck fly across isolated.wav            |
| 554434 | 41896301 | Wetland lake birds trout                    | QP01 0099 Wetland lake birds trout.wav                    |
| 554434 | 41896805 | Wetland spring peepers sparse others        | QP01 0114 Wetland spring peepers sparse others.wav        |
| 554434 | 41689043 | Wind coniferous alpine brisky roar howl     | QP02 0239 Wind coniferous alpine brisky roar howl.wav     |
| 554434 | 41689774 | Wind coniferous fast wispy gusts with lulls | QP02 0222 Wind coniferous fast wispy gusts with lulls.wav |
| 554434 | 41690355 | Wind coniferous strong various gusts        | QP02 0235 Wind coniferous strong various gusts.wav        |
| 554434 | 41732099 | Wind coniferous with tree creaking          | QP02 0225 Wind coniferous with tree creaking.wav          |
| 554434 | 41732475 | Wind deciduous forest quiet soft breeze     | QP02 0179 Wind deciduous forest quiet soft breeze.wav     |
| 554434 | 41732993 | Wind deciduous forest slow resonant breeze  | QP02 0180 Wind deciduous forest slow resonant breeze.wav  |
| 554434 | 41733491 | Wind deciduous soft surging no detail       | QP02 0192 Wind deciduous soft surging no detail.wav       |
| 554434 | 41733672 | Wind desert light wispy gusty roaring       | QP02 0252 Wind desert light wispy gusty roaring.wav       |
| 554434 | 41733973 | Wind desert blustery volcano rim            | QP02 0249 Wind desert blustery volcano rim.wav            |
| 554434 | 41736081 | Wind grass variable wispy                   | QP02 0204 Wind grass variable wispy.wav                   |
| 554434 | 41736273 | Wind grass winter strong consistent         | QP02 0213 Wind grass winter strong consistent.wav         |
| 554434 | 41896960 | Wind mod strong                             | QP01 0004 Wind mod strong.wav                             |
| 554434 | 41690987 | Wind palm frond brisk close rustles         | QP02 0245 Wind palm frond brisk close rustles.wav         |
| 554434 | 41691456 | Wind plants leaves rustle                   | QP02 0158 Wind plants leaves rustle.wav                   |
| 554434 | 41691578 | Wind plants light variable                  | QP02 0156 Wind plants light variable.wav                  |
| 554434 | 41692039 | Wind plants wispy breeze                    | QP02 0159 Wind plants wispy breeze.wav                    |
| 554434 | 41691989 | Wind reed softer leafy faint water laps     | QP02 0218 Wind reed softer leafy faint water laps.wav     |

My client is currently traveling and will provide additional information regarding these infringements, but I wanted to give you this notice. As Pond5 has noted, Mr. Kahn did almost nothing to cover his tracks and did not even change the names of the files infringed from Mr. Hempton.

3. I advised that we intend to pursue relief from the court on these issues and avail ourselves of the court's process for telephonic hearing of discovery disputes. (Dkt. #29 at par. 3) I requested times on Thursday and Friday for calling the court.

Let me know if you have any questions or comments.

Best regards,  
Roger

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